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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/652,927	08/31/2000	Theodore W. Meyers		4367

7590 02/07/2003

MARSHALL, O'TOOLE, GERSTEIN, MURRAY & BORUN  
6300 SEARS TOWER  
233 SOUTH WACKER DRIVE  
CHICAGO, IL 60606-6402

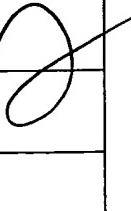
[REDACTED] EXAMINER

LUGO, CARLOS

ART UNIT	PAPER NUMBER
	3677

DATE MAILED: 02/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/652,927	MEYERS, THEODORE W. 
	<b>Examiner</b>	<b>Art Unit</b>
	Carlos Lugo	3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 02 December 2002.  
 2a) This action is FINAL.                  2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-6 and 15-23 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-6 and 15-23 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 11) The proposed drawing correction filed on 28 May 2002 is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.  
 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1.) Certified copies of the priority documents have been received.  
 2.) Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3.) Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.  
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.  
 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.<br>. | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

1. This Office Action is in response to Request for Continued Examination (RCE) filed on December 2, 2002. Claims 25-27 were cancelled.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1,4,6 and 19 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 6,136,190 to Zoeller et al (Zoeller) in view of US Pat No 5,580,453 to Nurse ('453) and further in view of US Pat No 901,545 to Morrison.

Regarding claims 1 and 6, Zoeller discloses a tee (16) comprising a cylindrical main body portion (where 16 is pointing in Figure 4) defining a tubular opening (28) that is adapted to receive a filter (14) therein.

A cylindrical uppermost hub (29) is coaxially with the cylindrical main body portion. The uppermost hub includes an inner diameter greater than the diameter of the cylindrical main body portion.

An inlet/outlet port is in communication with the tubular opening. The inlet/outlet port includes an inlet/outlet hub (26), located at an open end of the port, having a diameter sized to receive a pipe. The diameter of the inlet/outlet hub is greater than the diameter of the cylindrical main body portion.

However, Zoeller fails to disclose that the cylindrical main body portion is elongated and that the inlet/outlet hub receives a pipe of a first outer diameter or receive a pipe of a second outer diameter by the use of a reducer.

Nurse ('453) teaches that a tee having an elongated cylindrical main body portion (18) to adapt a large filter is known in the art.

Applicant is reminded that a change in the shape of a prior art device is a design consideration within the level of skill of one skilled in the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Morrison teaches that is known in the art to have a tee adapted to receive a pipe of a first or second outer diameter (by using a reducer as illustrated in Figure 8).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have an elongated cylindrical main body portion, as taught by Nurse ('453), and a device that helps to receive a first or a second outer diameter into the inlet/outlet hub, as taught by Morrison, into a tee as described by Zoeller, in order to adapt a bigger and larger filter and to adapt different pipes with different outer diameters.

As to claim 4, Zoeller illustrates that the inlet/outlet port includes a sweep portion arcing upwardly from the cylindrical main body portion toward a ring defined by the inlet/outlet hub. The sweep portion defines an opening in communication with the tubular opening and the inlet/outlet hub (Figure 4).

As to claim 19, Zoeller illustrates that the outlet opening of the inlet/outlet port is located along a length between the lowermost end and the uppermost hub, but near to the uppermost hub.

4. **Claims 2,3,5,15-18 and 20-23 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 6,136,190 to Zoeller et al (Zoeller) in view of US Pat No 5,580,453 to Nurse ('453), in view of US Pat No 901,545 to Morrison and further in view of US Pat No 3,633,943 to Ramm.

Regarding claims 2,3,5,15 and 21-23, Zoeller, as modified by Nurse ('453) and Morrison, fails to disclose that the tee includes a first and second rib extending longitudinally along the elongated main body, that between the ribs is coextending seams, and that the main body portion has a wall thickness of about .075-.1 inches.

Ramm teaches that the use of reinforced ribs (36) along the main body portion and to have seams coextending with the first and the second ribs is known in the art.

Nurse ('453) teaches that the inner diameter of the main body portion could be 4,6 or 8 inches (Col. 3 Lines48-50). Therefore, if someone is designing a pipe system, you will know that for a pipe (PVC or the like) with an inner diameter of 4 inches, the wall thickness is about .237 inches.

Applicant is reminded that a change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a main body with reinforcing ribs, as taught Ramm, into

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a tee as described by Zoeller, as modified by Nurse ('453) and Morrison, in order to reinforce to give more strength to the main body portion.

Also, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a wall thickness of about .075-1 inch, in order to save in cost of manufacturing.

As to claims 16 and 20, Zoeller disclose the use of a filter (14) received in the tubular opening.

As to claim 17, Zoeller discloses that the inlet/outlet hub (26) receives a length of a pipe (Figure 1).

As to claim 18, Morrison teaches that is known in the art to have a tee adapted to receive a pipe of a first or second outer diameter (by using a reducer as illustrated in Figure 8).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a device that helps to receive a first or a second outer diameter into the inlet/outlet hub, as taught by Morrison, into a tee as described by Zoeller, in order to adapt different pipes with different outer diameters.

#### ***Response to Amendment***

5. The affidavit under 37 CFR 1.132 filed December 2, 2002 is insufficient to overcome the current prior art rejection of claims 1-6 and 15-23 as previously set forth.

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***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents cited further show the state of the art with respect to tees.
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo. The examiner phone number is (703)-305-9747. The fax number for correspondence before a final action is (703)-872-9326 and the fax number for correspondence after final action is (703)-872-9327. The email direction of the examiner is carlos.lugo@uspto.gov. The examiner can normally be reached on Monday to Friday from 9:30am to 6:30pm (EST). If the examiner is not available, please leave a message, including the application number and the examiner will answer the message as soon as possible.

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February 5, 2003



WILLIAM MILLER  
PRIMARY EXAMINER